

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS, LLC, *et al.*)
Plaintiffs,) No. 07 Civ. 9931 (WHP)(FM)
v.)
MP3TUNES, LLC, and MICHAEL ROBERTSON,)
Defendants.)

MP3TUNES, LLC, and MICHAEL ROBERTSON,)
Counter-Claimants,)
v.)
CAPITOL RECORDS, LLC, *et al.*)
Counter-Defendants.)

PLEASE TAKE NOTICE that upon the accompanying the Declarations of Andrew H. Bart, dated October 29, 2010, Ellis Horowitz, dated October 29, 2010, Audrey Ashby, dated October 29, 2010, Michael Abitbol, dated October 28, 2010, Anne Tarpey, dated October 29, 2010, and Alasdair McMullan, dated October 28, 2010, and the documents submitted therewith, the accompanying Local Rule 56.1 Statement of Uncontroverted Facts, the accompanying Memorandum of Law, and all papers and proceedings heretofore had herein, the undersigned attorneys for Plaintiffs shall move this Court, before the Honorable Judge William H. Pauley III, United States District Judge for the Southern District of New York, at the United States Courthouse located at 500 Pearl Street, Courtroom 11-D, New York, New York 10007, on January 28, 2011 at 11:30 am, for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure granting plaintiff summary judgment

defendant MP3tunes on claims 1, 2, 3, 6, 7, and 8 in the Second Amended Complaint and for such other and further relief as the Court deems appropriate.

Dated: New York, New York
October 29, 2010

Respectfully submitted,

By: Andrew H. Bart

Andrew H. Bart
Joseph J. McFadden
JENNER & BLOCK LLP
919 Third Avenue
37th Floor
New York, NY 10022
tel. (212) 891-1690
fax (212) 891-1699

-and-

Steven B. Fabrizio
JENNER & BLOCK LLP
1099 New York Avenue, NW
Suite 900
Washington, DC 20001
tel. (202) 639-6000
fax (202) 639-6066

*Attorneys for Plaintiffs Capitol Records,
LLC, Caroline Records, Inc, EMI
Christian Music Group Inc., Priority
Records LLC, Virgin Records America,
Inc.*

By: Frank P. Scibilia

Donald S. Zakarin
Frank P. Scibilia
Jacob B. Radcliff
M. Mona Simonian
PRYOR CASHMAN LLP
7 Times Square
New York, New York 10036-6569
Telephone: (212) 421-4100
Facsimile: (212) 326-0806

Attorneys for the Beechwood Music Corp.,

Colgems-EMI Music Inc., EMI April Music Inc., EMI Blackwood Music, EMI Full Feel Music, EMI Golden Torch Music Corp., EMI Longitude Music, EMI Virgin Music, Inc., EMI Virgin Songs, Inc., EMI Al Gallico Music Corp., EMI Algee Music Corp., EMI Feist Catalog, Inc., EMI Gold Horizon Corp., EMI Grove Park Music, Inc. EMI Hastings Catalog, Inc., EMI Mills Music, Inc., EMI Miller Catalog, Inc., EMI Robbins Catalog, Inc., EMI U Catalog, Inc., EMI Unart Catalog, inc., Jobete Music Co., Inc., Screen Gems-EMI Music, inc., Stone Agate Music, and Stone Diamond Music